From:	Robert.Neely
Reply To:	Robert.Neely@noaa.gov
To:	Eric Blischke/R10/USEPA/US@EPA
Subject:	Re: Fw: Portland Harbor Biological Opinion
Date:	12/20/2005 03:55 PM
Attachments:	NMFS_BiOP_gasco_site_08-19-2005.pdf Robert.Neely.vcf

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Here's the Gasco BiOp (attached). I've also provided some selected text and highlighted it below. In short, NMFS concluded that jeopardy was unlikely, that the incidental take would include up to 50 juvenile salmonids and 5 adults. Incidental take is exempt from action under ESA. I do not believe there is evidence that the incidental take was exceeded for GASCO, but I can followup with NMFS if you like. Stay tunded for M&B.

-R

GASCO biop conclusion -- After reviewing the status of ESA-listed salmonids, and their designated critical habitat, the environmental baseline for the action area, the effects of the proposed action, and cumulative effects, /NMFS concludes that the action, as proposed, is not likely to jeopardize the continued existence of the ESA-listed salmonids and is not likely to destroy or adversely modify designated critical habitat/.

Incidental Take -- Section 9(a)(1) of the ESA prohibits the taking of listed species without a specific permit or exemption. Protective regulations adopted pursuant to Section 4(d) extend the prohibition to threatened species. Among other things, an action that harasses, wounds, or kills an individual of a listed species or harms a species by altering habitat in a way that significantly impairs its essential behavioral patterns is a taking (50 CFR 222.102). /Incidental take refers to takings that result from, but are not the purpose of, carrying out an otherwise lawful activity conducted by the Federal agency or applicant (50 CFR 402.02). Section 7(o)(2) exempts any taking that meets the terms and conditions of a written incidental take statement from the taking prohibition/.

Amount or Extent of Take -- Activities necessary to complete the proposed sediment removal action will take place in riparian and benthic areas within the active stream channel of Willamette River and the Columbia River when individuals of LCR Chinook salmon, UWR spring-run Chinook salmon, CR chum salmon, LCR steelhead, UWR steelhead, LCR coho salmon, UCR Chinook salmon, SR spring/summer run Chinook salmon, SR fall-run Chinook salmon, UCR steelhead, MCR steelhead, and SRB steelhead are likely to be present. Incidental take caused by adverse effects of those actions will include the following: (1) Capture of juvenile fish during work area isolation, some of which will be injured or killed; and (2) an increase in PAHs and other contaminants and turbidity due to removal of contaminated sediments that will harass or kill juvenile and adult fish in the action area, and will likely cause them to avoid the project vicinity during project activities.
The NMFS anticipates that up to 50 juvenile and 5 adult individuals of the ESUs considered in the consultation will be captured, injured, or killed due to work necessary to isolate the in-water construction area. Because the individual juvenile fish that are likely to be captured, injured or killed by this action are from different ESUs that are similar to each other in appearance and life history, and to unlisted species that occupy the same area, assigning this take to individual ESUs is not possible. The adult fish could be UWR spring-run or LCR Chinook salmon, UWR or LCR steelhead or LCR coho salmon.
Take caused by the contaminant and turbidity exposure cannot be accurately quantified as a number of fish because the relationship between contaminant concentrations and effects, as well the distribution and abundance of listed salmonids in the action area, is imprecise. In such circumstances, NMFS uses the causal link established between the activity and a change in habitat conditions (such as water quality) affecting the species to describe the extent of take as a numerical level of habitat disturbance.
Here, the best available indicator for the extent of take is the area and volume of benthic habitat that will be modified by the action because those variables are directly proportional to harm attributable to this project - removal of 20,000 square feet of freshwater rearing and migration habitat containing 16,000 cy of tar material and contaminated sediment.

In the accompanying
Opinion, NMFS determined that the level of incidental take associated
with this activity is not
likely to result in jeopardy to the species. Moreover, the habitat that
will be affected is
extremely poor quality because of the existing level of contamination,
and is not limited at the
site-specific or watershed scale.
/The estimated number of fish to be captured, injured, or killed during
work area isolation (50
juvenile and 5 adult individuals of the ESUs considered in the
consultation) and the amount of
contaminated sediment that will be removed by dredging (20,000 square
feet of freshwater
rearing and migration habitat containing 16,000 cy of tar material and
contaminated sediment)
are thresholds for reinitiating consultation. Exceeding any of these
limits will trigger the
reinitiation provisions of this Opinion/.

Blischke.Eric@epamail.epa.gov wrote:

>Rob, can you help me out here.
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>Eric
>----- Forwarded by Eric Blischke/R10/USEPA/US on 12/20/2005 01:10 PM
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> URBANOWICZ Karla
> <URBANOWICZ.Karl
> a@deq.state.or.u To
> s> Eric Blischke/R10/USEPA/US@EPA
> cc
> 12/16/2005 04:16
> PM Subject
> Portland Harbor Biological
> Opinion
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>Hey Eric -
>Bruce Hope told me there have been two biological opinions issued by
>NOAA for the Portland Harbor and the McCormick and Baxter site that
>showed there was "injury" to fish. Do you know where I could get a copy
>of these BiOps to take a look?
>
>Thanks
>Merry Christmas to you, H, and A!
>
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